

NOTE: CHANGES MADE BY
THE COURT

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

RENE AGUILAR CARBALLO,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant .

No. CV 08-04633 ABC (MANx)

PROTECTIVE ORDER

Based upon the parties' Stipulation Re: Protective Order ("Stipulated Protective Order"), filed on November 25, 2009, the terms of the parties' Stipulated Protective Order are adopted as a Protective Order of this Court except to the extent, as set forth below, that those terms have been modified by the Court's amendments to paragraphs 3, 9, and 10.

The parties are expressly cautioned that this Stipulated Protective Order, in and of itself, creates no entitlement to file under seal information, documents, or things designated as Confidential Material by the parties. Accordingly, reference to this Stipulated Protective Order or to the parties' designation of any information, document, or thing as Confidential Material

1 is wholly insufficient to warrant filing under seal. Good cause
2 must be shown to support a filing under seal, and the parties'
3 mere designation of any information, document, or thing as
4 Confidential Material does not - without the submission of
5 **competent evidence** establishing that the material sought to be
6 filed under seal qualifies as confidential, proprietary, trade
7 secret, or private information - establish good cause.

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9 **TERMS OF PROTECTIVE ORDER**

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11 1. In connection with discovery proceedings in this
12 action, the parties may designate any document, thing, material,
13 testimony or other information derived therefrom, as
14 "Confidential" under the terms of this Stipulated Protective
15 Order (hereinafter "Order"). Confidential information is
16 information which has not been made public and which concerns or
17 relates to sensitive documents, including personnel files or
18 other information subject to the Privacy Act (codified at 5
19 U.S.C. § 552a), law enforcement techniques, policies and
20 procedures, and criminal investigative files.

21 By designating a document, thing, material, testimony or
22 other information derived therefrom as "confidential," under the
23 terms of this order, the party making the designation is
24 certifying to the court that there is a good faith basis both in
25 law and in fact for the designation within the meaning of Federal
26 Rule of Civil Procedure 26(g).

27 2. Confidential documents shall be so designated by
28 stamping copies of the document produced to a party with the

1 legend "CONFIDENTIAL." Stamping the legend "CONFIDENTIAL" on the
2 cover of any multipage document shall designate all pages of the
3 document as confidential, unless otherwise indicated by the
4 producing party.

5 3. Testimony taken at a deposition **[text deleted]** may be
6 designated as confidential by making a statement to that effect
7 on the record at the deposition **[text deleted]**. Arrangements
8 shall be made with the court reporter taking and transcribing
9 such proceeding to separately bind such portions of the
10 transcript containing information designated as confidential, and
11 to label such portions appropriately.

12 4. Material designated as confidential under this Order,
13 the information contained therein, and any summaries, copies,
14 abstracts, or other documents derived in whole or in part from
15 material designated as confidential (hereinafter "Confidential
16 Material") shall be used only for the purpose of the prosecution,
17 defense, or settlement of this action, and for no other purpose.

18 5. Confidential Material produced pursuant to this Order
19 may be disclosed or made available only to the Court, to counsel
20 for a party (including the paralegal, clerical, and secretarial
21 staff employed by such counsel), and to the "qualified persons
22 designated below:

23 (a) a party, or an officer, director, or employee of a
24 party deemed necessary by counsel to aid in the
25 prosecution, defense, or settlement of this action;
26 (b) experts or consultants (together with their clerical
27 staff) retained by such counsel to assist in the
28 prosecution, defense, or settlement of this action;

- (c) court reporter(s) employed in this action;
- (d) a witness at any deposition or other proceeding in this action; and
- (e) any other person as to whom the parties in writing agree.

6 Prior to receiving any Confidential Material, each
7 "qualified person" shall be provided with a copy of this Order
8 and shall execute a nondisclosure agreement in the form of
9 Attachment A, a copy of which shall be provided forthwith to
10 counsel for each other party and for the parties.

11 6. Depositions shall be taken only in the presence of
12 qualified persons.

13 7. The parties may further designate certain discovery
14 material or testimony of a highly confidential and/or proprietary
15 nature as "CONFIDENTIAL--ATTORNEY'S EYES ONLY" (hereinafter
16 "Attorney's Eyes Only Material"), in the manner described in
17 paragraphs 2 and 3 above. Attorney's Eyes Only Material, and the
18 information contained therein, shall be disclosed only to the
19 Court, to counsel for the parties (including the paralegal,
20 clerical, and secretarial staff employed by such counsel), and to
21 the "qualified persons" listed in subparagraphs 5(b) through (e)
22 above, but shall not be disclosed to a party, or to an officer,
23 director or employee of a party, unless otherwise agreed or
24 ordered. If disclosure of Attorney's Eyes Only Material is made
25 pursuant to this paragraph, all other provisions in this order
26 with respect to confidentiality shall also apply.

27 8. Nothing herein shall impose any restrictions on the use
28 or disclosure by a party of material obtained by such party

1 independent of discovery in this action, whether or not such
2 material is also obtained through discovery in this action, or
3 from disclosing its own Confidential Material as it deems
4 appropriate.

5 9. If Confidential Material, including any portion of a
6 deposition transcript designated as Confidential or Attorney's
7 Eyes Only, is included in any papers to be filed in Court, such
8 papers **shall be filed in accordance with the provisions of L.R.**
9 **79-5 of the Local Civil Rules of this Court.**

10 10. In the event that any Confidential Material is used in
11 any court proceeding in this action **[text deleted]** the party
12 using such Confidential Material shall take all reasonable steps
13 to maintain its confidentiality during such use.

14 11. This Order shall be without prejudice to the right of
15 the parties (i) to bring before the Court at any time the
16 question of whether any particular document or information is
17 confidential or whether its use should be restricted or (ii) to
18 present a motion to the Court under FRCP 26(c) for a separate
19 protective order as to any particular document or information,
20 including restrictions differing from those as specified herein.
21 This Order shall not be deemed to prejudice the parties in any
22 way in any future application for modification of this Order.

23 12. This Order is entered solely for the purpose of
24 facilitating the exchange of documents and information between
25 the parties to this action without involving the Court
26 unnecessarily in the process. Nothing in this Order nor the
27 production of any information or document under the terms of this
28 Order nor any proceedings pursuant to this Order shall be deemed

1 to have the effect of an admission or waiver by either party or
2 of altering the confidentiality or nonconfidentiality of any such
3 document or information or altering any existing obligation of
4 any party or the absence thereof.

5 13. This Order shall survive the final termination of this
6 action, to the extent that the information contained in
7 Confidential Material is not or does not become known to the
8 public, and the Court shall retain jurisdiction to resolve any
9 dispute concerning the use of information disclosed hereunder.
10 Upon termination of this case, counsel for the parties shall
11 assemble and return to each other all documents, material and
12 deposition transcripts designated as confidential and all copies
13 of same, or shall certify the destruction thereof within 60 days
14 of the termination of this action.

15
16 DATED: February 1, 2010

Margaret A. Nagle

17 MARGARET A. NAGLE

18 UNITED STATES MAGISTRATE JUDGE

PRESENTED BY:

19 GEORGE S. CARDONA
20 Acting United States Attorney
LEON W. WEIDMAN
21 Assistant United States Attorney
Chief, Civil Division

22 /s/ Jason K. Axe
JASON K. AXE
23 Assistant United States Attorney
Attorneys for Defendant

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1 Attachment A

2 NONDISCLOSURE AGREEMENT

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4 I, _____ do solemnly swear that I am

5 fully familiar with the terms of the Stipulated Protective Order

6 entered in Rene Aquilar Carballo v. United States of America,

7 United States District Court for the Central District of

8 California, Civil Action No. CV 08-4633 ABC (MANx), and hereby

9 agree to comply with and be bound by the terms and conditions of

10 said Order unless and until modified by further Order of this

11 Court. I hereby consent to the jurisdiction of said Court for

12 purposes of enforcing this Order.

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14 DATED: _____

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